## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:16-cv-330-RJC

(3:07-cr-144-RJC-1)

ANDRE L. CORBETT,	)	
Petitioner,	)	
VS.	)	<u>ORDER</u>
UNITED STATES OF AMERICA,	)	
Respondent.	)	
	)	

**THIS MATTER** is before the Court on the parties' Response to the Court's September 4, 2019 Order to Show Cause why the stay should not be lifted. (Doc. No. 8).

This matter is currently being held in abeyance pending resolution of <u>United States v. Ali</u>, No. 15-4433 and <u>United States v. Simms</u>, No. 15-4640 which are pending before the Fourth Circuit Court of Appeals. (Doc. No. 6). On September 4, 2019, the Court ordered the parties to show cause why the stay should not be lifted in light of <u>United States v. Davis</u>, 139 S.Ct. 2319 (2019) and United States v. Simms, 914 F.3d 229 (4<sup>th</sup> Cir. 2019). (Doc. No. 8).

The Government filed a Response arguing that the stay should be continued pursuant to Ali because the legal issues presented in Ali and the instant case are nearly identical. (Doc. No. 9). Petitioner filed a Reply arguing that Ali, which is itself stayed pursuant to United States v. Jordan, No. 17-4751, is no longer relevant and that the instant case should instead be stayed pursuant to United States v. Steward, No. 15-4422. (Doc. No. 10).

The Court agrees with Petitioner that the issues involved in <u>Steward</u> may have a bearing on the disposition of the issues in Petitioner's case. This case will therefore continue to be stayed

pursuant to <u>Ali</u> and <u>Steward</u> and the Government will be ordered to respond to Petitioner's § 2255 Motion to Vacate within **30 days** after the mandate in <u>Ali</u> or <u>Steward</u> is issued, whichever occurs first.

IT IS, THEREFORE ORDERED that this case will remain stayed pursuant to <u>Ali</u> and <u>Steward</u> and the Government shall have 30 days after the Fourth Circuit issues its mandate in <u>Ali</u> or <u>Steward</u>, whichever occurs first, to respond to Petitioner's § 2255 Motion to Vacate.

Signed: September 18, 2019

Robert J. Conrad, Jr.

United States District Judge